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EXAMINER				
CHEN, QING				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/687,233

Applicant(s)

RUNTE ET AL.

Examiner

Qing Chen

Art Unit

2191

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 4-6, 8, 11-19, 21, 22, 25, 32, 34 and 35.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Wei Y Zhen/
 Supervisory Patent Examiner, Art Unit 2191

Continuation of 11, does NOT place the application in condition for allowance because:

Regarding the Applicant's arguments on page 9 to page 10 of the "Remarks" pertaining to the rejections of the claims made under 35 U.S.C. § 102(b), the Applicant contends that Sundararajan does not disclose the particular claim limitation of "wherein the software object is instantiated in a second software subsystem to interact with software objects of the second software subsystem." More specifically, the Applicant asserts that Sundararajan fails to explicitly discuss a software object being instantiated in a second software subsystem. Applicant also asserts that it is not possible for Sundararajan to disclose or suggest a second software subsystem located at a client as recited in the Applicant's claims. Applicant's arguments are fully considered, but found to be not persuasive for at least the following reasons:

First, with respect to the Applicant's assertion that Sundararajan fails to explicitly discuss a software object being instantiated in a second software subsystem, as previously pointed out in the Final Rejection (mailed on 12/08/2008) and further clarified hereinafter, the Examiner respectfully submits that Sundararajan clearly discloses a software object being instantiated in a second software subsystem (see Figure 1; Paragraph [0016], "An exemplary relationship within an e-commerce application might include, but is not limited to, identified compatibility between a web application server and web server software, which both cooperate to present one or more web pages to an end user, such as a user of a user computer."; Paragraph [0029], "In an example of a component change management system according to the present invention, an e-commerce application can include a variety of device and application modules, combined in multiple configurations over a range of version levels with a variety of enabled features."). Attention is drawn to Figure 1 of Sundararajan which clearly illustrates a variety of devices (computers) and application modules that constitute an e-commerce application. Note that the e-commerce application includes the various web application server software and web server software residing within each of the multiple e-commerce computers. Thus, one of ordinary skill in the art would readily comprehend that the various web application server software and web server software (software object) can be instantiated by any of the multiple e-commerce computers (second software subsystem). In addition, for further clarification, the Examiner also submits that one of ordinary skill in the art would readily recognize that the multiple e-commerce computers and the various web application server software and web server software can be combined in different configurations to present one or more web pages to an end user.

Second, with respect to the Applicant's assertion that it is not possible for Sundararajan to disclose or suggest a second software subsystem located at a client, as previously pointed out in the Final Rejection (mailed on 12/08/2008) and further clarified hereinafter, the Examiner respectfully submits that Sundararajan clearly discloses a second software subsystem located at a client (see Figure 1; Paragraph [0029], "In an example of a component change management system according to the present invention, an e-commerce application can include a variety of device and application modules, combined in multiple configurations over a range of version levels with a variety of enabled features."). Note that, as discussed hereinabove, Figure 1 of Sundararajan clearly illustrates a variety of devices (computers) and application modules that constitute an e-commerce application. The multiple e-commerce computers are configured in a network environment. Thus, one of ordinary skill in the art would readily comprehend that each of the e-commerce computers can be either a server or client depending on whether it is sending or receiving data, respectively.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 102(b) with respect to Claims 1 and 32 and 35 U.S.C. § 103(a) with respect to Claims 6 and 22 are proper and therefore, maintained.